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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/469,652	12/22/1999	JONATHAN J. WIERER JR.	10992873-1	5235

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EXAMINER

JACKSON JR, JEROME

ART UNIT PAPER NUMBER

2815

DATE MAILED: 03/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

Office Action Summary	Application No. 09/469,652	Applicant(s) WIERER ET AL.	
	Examiner Jerome Jackson Jr.	Art Unit 2815	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,5-11,14-16,18-25,27-31 and 35 is/are pending in the application.
- 4a) Of the above claim(s) 1,3,5-10,14,19 and 21-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11,15,16,18,20,27-31,35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 11,15,16,20,27-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Mensz, of record.

The previous rejection still applies. The new limitations reciting Ni and Ag do not structurally distinguish over Mensz who shows the same metals and reflectivity greater than 75 %.

Claims 11,15,16,18,27-31,35 rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-18 of U.S. Patent No. 6,486,499. Although the conflicting claims are not identical, they are not patentably distinct from each other because (see the previous rejection).

Claims 11,15,16,18,20,27-31,35 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 3 and 10 of U.S. Patent No. 6,844,571. Although the conflicting claims are not identical, they are not patentably distinct from each other because (see the previous rejection).

Applicant's arguments filed 12/17/04 have been fully considered but they are not persuasive. Applicant argues that Mensz's contact is not "ohmic". This argument is not persuasive as the contact of Mensz can be labeled "ohmic" because the device is a p-n junction device that is forward biased to emit light. There are no magnitudes of contact resistance in claims 11 and 31 to differentiate any difference in "ohmic" contact between applicant and Mensz. "Ohmic" here is considered no more than a label as there are no distinctive properties claimed to distinguish applicant's "ohmic" contact over the "ohmic"

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contact of Mensz. Furthermore, the 5 Volt @ 20mA value of Mensz appears to show that the voltage and current are calculated across the entire device and that the contact is "ohmic". Claim 29 is rejected as it appears from figure 2 of Mensz that the voltage across the device at 10 mA (rather than 20 mA) is less than 5 Volts and probably closer to 3.5 V. Unless applicant can prove that Mensz cannot possibly function (emit light) at 3.5 V the rejection of claim 29 will be maintained. Claim 27 is also rejected as Mensz's contact structure appears to possess the required contact resistance from figure 2 and the 5 V at 20mA property. If applicant can prove that Mensz does not possess the required resistance the claim will be allowed.

Claims reciting Au material (18,35) have not been rejected over Mensz as he does not recite Ni, Au, and Al material used together. These claims should be allowable after a proper terminal disclaimer has been submitted.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

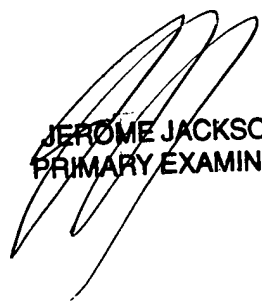
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerome Jackson Jr. whose telephone number is 571 272 1730. The examiner can normally be reached on t-th 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Thomas can be reached on 571 272 1664. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jj


JEROME JACKSON
PRIMARY EXAMINER